

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALEX E. RINEHART, On Behalf of  
Himself And All Others Similarly Situated,

Plaintiff,

vs.

LEHMAN BROTHERS HOLDINGS INC.,  
RICHARD S. FULD, JR., MICHAEL L.  
AINSLIE, JOHN F. AKERS, ROGER S.  
BERLIND, THOMAS H. CRUIKSHANK,  
MARSHA JOHNSON EVANS, SIR  
CHRISTOPHER GENT, ROLAND A.  
HERNANDEZ, HENRY KAUFMAN,  
JOHN D. MACOMBER, ERIN M.  
CALLAN, WENDY M. UVINO, THE  
EMPLOYEE BENEFIT PLANS  
COMMITTEE, and JOHN DOES 1-10,

Defendants.

Civil Action No. 08cv5598 (LAK)

[Additional Captions Follow]

**DECLARATION OF MARK C. RIFKIN IN OPPOSITION TO PLAINTIFF JO ANNE  
BUZZO'S MOTION FOR CONSOLIDATION OF RELATED ACTIONS AND FOR  
APPOINTMENT OF INTERIM LEAD PLAINTIFF, INTERIM LEAD COUNSEL AND  
INTERIM LIAISON COUNSEL**

JO ANNE BUZZO, On Behalf of Herself  
And All Others Similarly Situated,

Plaintiff,

vs.

LEHMAN BROTHERS HOLDINGS INC.,  
WENDY M. UVINO, LEHMAN  
BROTHERS HOLDINGS INC.  
EMPLOYEE BENEFIT PLANS  
COMMITTEE, JOHN DOES 1-10, HENRY  
KAUFMAN, JOHN F. AKERS, ROGER S.  
BERLIND, MARSHA JOHNSON EVANS,  
and ROLAND A. HERNANDEZ,

Defendants.

**Civil Action No. 08cv6245 (UA)**

MONIQUE MILLER FONG, On Behalf of  
Herself And All Others Similarly Situated,

Plaintiff,

vs.

LEHMAN BROTHERS HOLDINGS INC.,  
RICHARD S. FULD, JR., MICHAEL L.  
AINSLIE, JOHN F. AKERS, ROGER S.  
BERLIND, THOMAS H. CRUIKSHANK,  
MARSHA JOHNSON EVANS, SIR  
CHRISTOPHER GENT, JERRY A.  
GRUNDHOFER, ROLAND A.  
HERNANDEZ, HENRY KAUFMAN,  
JOHN D. MACOMBER, ERIN M.  
CALLAN, WENDY M. UVINO, THE  
EMPLOYEE BENEFIT PLANS  
COMMITTEE, and JOHN DOES 1-10,

Defendants.

**Civil Action No. 08cv6282 (LAK)**

1. I, MARK C. RIFKIN, respectfully submit this declaration (the "Rifkin Declaration" or "Rifkin Decl.") in Opposition to Plaintiff Jo Anne Buzzo's Motion for Consolidation of Related Actions and for Appointment of Interim Lead Plaintiff, Interim Lead Counsel and Interim Liaison Counsel.

2. I am a member of Wolf Haldenstein Adler Freeman & Herz LLP ("Wolf Haldenstein" or the "Firm"), and one of the attorneys of record for plaintiff Monique Miller Fong and the proposed class members in the above captioned actions (the "Lehman ERISA Litigation.").

3. Attached hereto as Exhibit A is a true and correct copy of a June 18, 2008 request for Lehman Brothers Savings Plan documents pursuant to ERISA § 104(b)(4), 29 U.S.C. § 1024(b)(4).

4. Attached hereto as Exhibit B is a true and correct copy of a July 25, 2008 certified letter notifying the United States Secretary of the Treasury and Secretary of Labor of the filing of the *Rinehart* and *Fong* actions as required by ERISA § 502(h), 29 U.S.C. § 1132(h).

I hereby declare that the foregoing is true and correct.

Dated: July 29, 2008

/s/ Mark C. Rifkin  
Mark C. Rifkin

# EXHIBIT A

# GAINY & McKENNA

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ATTORNEYS AT LAW

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FOURTH FLOOR  
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TEL: (212) 983-1300  
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e-mail: [tjmckenna@gaineyandmckenna.com](mailto:tjmckenna@gaineyandmckenna.com)

666 GODWIN AVENUE  
SUITE 230  
MIDLAND PARK, NEW JERSEY 07432  
TEL: (201) 689-9000  
FAX: (201) 689-9969

Please Reply To The New York Address

June 18, 2008

**VIA FED EX – OVERNIGHT DELIVERY**

Ms. Wendy M. Uvino  
Lehman Brothers Holdings Inc.  
745 Seventh Avenue  
New York, NY 10019

Re:     The Lehman Brothers Savings Plan  
Our File No.: 100.437

Dear Ms. Uvino:

On behalf of our client, Alex E. Rhinehart, we write to request certain documents within the scope of Section 104(b)(4) of the Employee Retirement Income Security Act, 29 U.S.C. § 1132 (“ERISA”) related to the Lehman Brothers Savings Plan (the “Plan”). Specifically, we request the following documents and any amendments thereto for the Plan:

- All Plan documents for the period of September 13, 2006 to the present, including master Plan documents, Summary Plan Descriptions, Annual Reports, Trust Agreements, Material Modifications, Prospectuses, SEC Form 10-Ks, 11-Ks and S-8s, Internal Revenue Service Form 5500s, Investment Policy Statements and Investment Management Contracts, and all amendments, exhibits, or appendices thereto;
- All communications with participants regarding the Plan and any discussion of investment funds or options;
- All documents which identify the fiduciaries of the Plan;
- Copies of all rules, regulations, bylaws, and procedures adopted by the Plan;
- Any documents describing or setting forth fiduciary duties owed to the Plan and the Plan participants; and
- The Plan Committee and Board of Directors minutes and resolutions (including the minutes and resolutions of any committees and subcommittees thereof), relating to the Plan, and designation of

*Ms. Uvino*  
June 18, 2008  
Page 2

investment funds or options.

We request that you provide the foregoing documents to us within thirty (30) days of receiving this request.

Very truly yours,

GAINES & McKENNA  
*Thomas J. McKenna*  
Thomas J. McKenna

TJM/ne

# **EXHIBIT B**

WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP

FOUNDED 1888

**SCOTT J. FARRELL, ESQ.**  
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WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLC  
55 WEST MONROE STREET, SUITE 1111  
CHICAGO, IL 60603

July 25, 2008

**VIA CERTIFIED MAIL**

U.S. Department of Labor  
Office of the Solicitor  
N-4611  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

U.S. Treasury Department  
Office of the General Counsel  
Room 3000  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

**Re: Lehman Brothers Erisa**

Dear Sir/Madam:

As required by 29 U.S.C. §1132(h), please find complaints filed in the following actions:

**Rinehart v. Lehman Holdings Inc., 08 Civ. 5598 (S.D.N.Y.)**

**Fong v. Lehman Brothers Holdings, Inc., 08 Civ. 6282 (S.D.N.Y.)**

Sincerely,  
Scott J. Farrell

SJF/jw/516520  
Enclosures